

Group II: Claims 34-51, drawn to method and system for transmission of data (upload/download) wirelessly including antenna detail structure / arrangement for forming the antenna pattern.

Applicants hereby elect, without traverse, the Group I claims 22-33 for further prosecution on the merits.

In addition, by the present Amendment, Claims 52 - 54 are added, in which Claims 53 and 54 are substantially identical to original Claims 10 and 16, respectively. The latter claims were canceled in the Amendment of October 31, 2001 to expedite the allowance of the remaining claims, but are now re-presented as Claims 52-53. These claims were not subjected to any restriction requirement in the first Office Action of July 31, 2001, and it believed that they should not be so restricted now.

Claim 10 was rejected in the Office Action of July 31, 2001 under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patent No. 5,434,859 ("Levardon") and U.S. Patent No. 5,842,130 ("Oprescu"). In particular, the Office Action asserted that Levardon discloses a fixed hub that can transmit at 60GHz, but did not disclose a mobile terminal with a narrow beam antenna. Oprescu was relied upon for disclosing such a mobile terminal, and it was reasoned that it would have been obvious to combine the two references to arrive at the claimed invention. Applicants respectfully disagree. It is readily apparent that the base station and mobile terminals in Oprescu operate at considerably lower frequencies than 60GHz (i.e., the specific frequencies in Oprescu are not disclosed, thus it is assumed that conventional frequencies on the order of 1 GHz are used). Consequently, it cannot be reasonably presumed that the skilled artisan would have been inclined to use techniques designed for frequencies that are an order of

magnitude lower. That is, the prior art does not, in fact, suggest the combination, and thus the combination is not proper to reject Claim 52 under §103.

Regarding new Claim 53 corresponding to original Claim 16, this claim is patentable based at least upon its dependency from Claim 52. In addition, as explained previously, the Office Action, in rejecting canceled Claims 8 and 16 which included the features of an antenna with a kidney shaped beam, appeared to indicate that the claims merely add the intention of using the system in a particular environment. However, the feature of a fixed hub having a kidney shaped beam in cross-section clearly defines a structural aspect of one of the components in the claimed system. Thus, the Examiner's analysis is misguided. In addition, no reference was cited purporting to disclose this feature, and thus it appears as though the rejection was based on Official Notice. The Applicant respectfully traverses this Official Notice, and respectfully requests that if Claim 53 is rejected based on a similar rationale, that a reference be provided that specifically discloses the above-noted claim limitation.

New Claim 54 further defines the system of Claim 53.

In light of the foregoing, entry of this amendment, and the allowance of this application with Claims 22-33 and 52-54 are respectfully solicited.

The above statements concerning the disclosures in the cited references represent the present opinion of Applicant's representative and, in the event that the Examiner disagrees, Applicant's representative respectfully requests the Examiner specifically indicate those portions of the reference providing the basis for a contrary view.


In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicant's representative at the

PATENT  
450100-02669

telephone number written below.

Respectfully submitted,  
FROMMER LAWRENCE & HAUG LLP

By:



Glenn F. Savit  
Reg. No. 37,437  
(212) 588-0800